Constraints Analysis

Griswold Property, Covina, Los Angeles County, California

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Griswold Property, Covina, Los Angeles County, California

Griswold Adult Center, California
Baldwin Park, California, USGS 7.5-minute Topographic Quadrangle Map

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1 Introduction

1.1 Project Purpose

MLC Holdings, Inc. is working with the City of Covina to develop residences on the former Griswold Adult Center, located at 16209 East San Bernardino Road (Project Site). The plan is to convert a 9.6-acre former elementary school into 48 residential lots. At the request of the prime environmental contractor, FCS, Independent Biologist Ricardo Montijo assessed the Project Site for Biological Resources. The intent of the biological survey is to research existing biological information for the site, to document the existing biological conditions on-site, and to analyze any potential impacts to biological resources arising from the proposed project within the proposed site. This report describes on-site vegetation communities, identifies areas subject to special jurisdiction (waters and wetlands), and assesses the potential for occurrence of special-status plant and wildlife species within the Project Site.

1.2 Project Location

The Project site is located at 16209 East San Bernardino Road, in the City of Covina, Los Angeles County (Figures 1 and 2). The Project Site currently consists of developed and landscaped institutional lands, with school facilities (Photographs 1 and 2). The project is located in a largely residential suburb with elevations that range from 440 feet (134 meters) above mean sea level (AMSL) at its northeastern limits to 430 feet (131 meters) AMSL at its southwestern limits. The site is mapped on the northern half of the USGS 7.5-minute Baldwin Quadrangle, Township 1 S, Range 10W.

By car the site is located off of Interstate 210 and is easily reached via Irwindale Blvd. south to West San Bernardino Rd. The site is located on West San Bernardino Road between Irwindale Blvd. and Azusa Blvd. (Figure 3). The proposed development is shown on Figure 4.

Figure 1. Regional Location and Vicinity Map

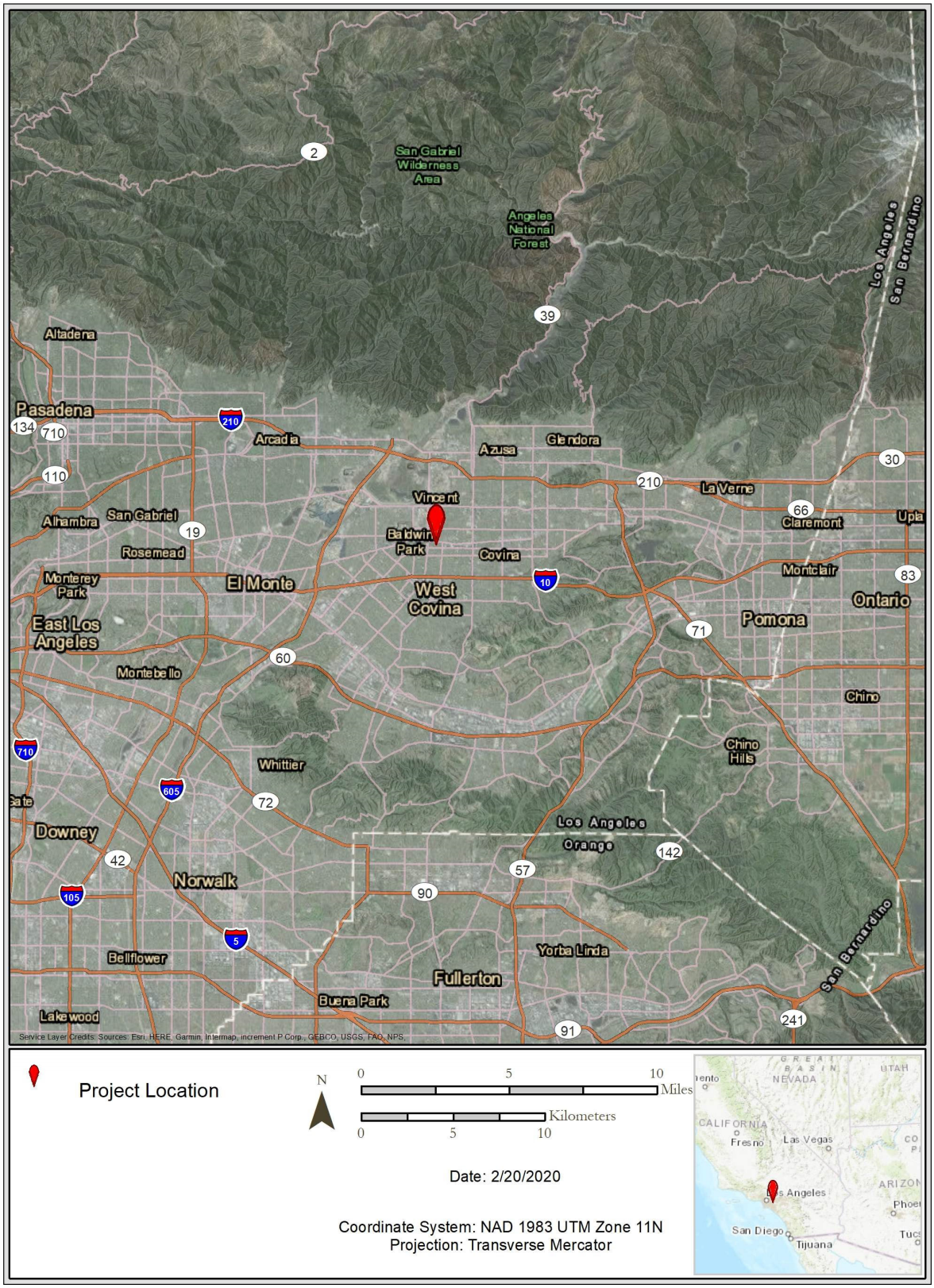


Figure 2. Topographic Map

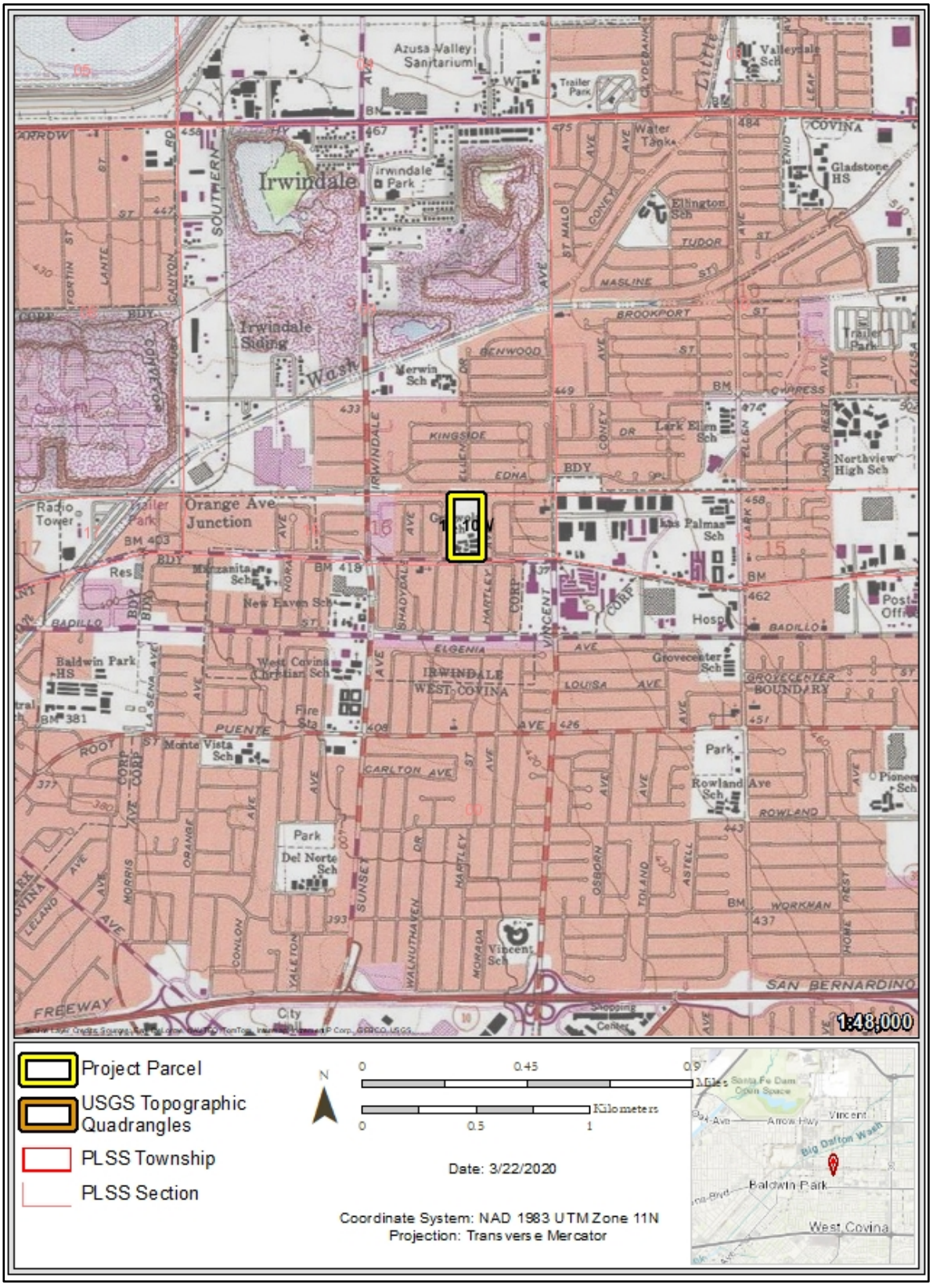


Figure 3. Site Map

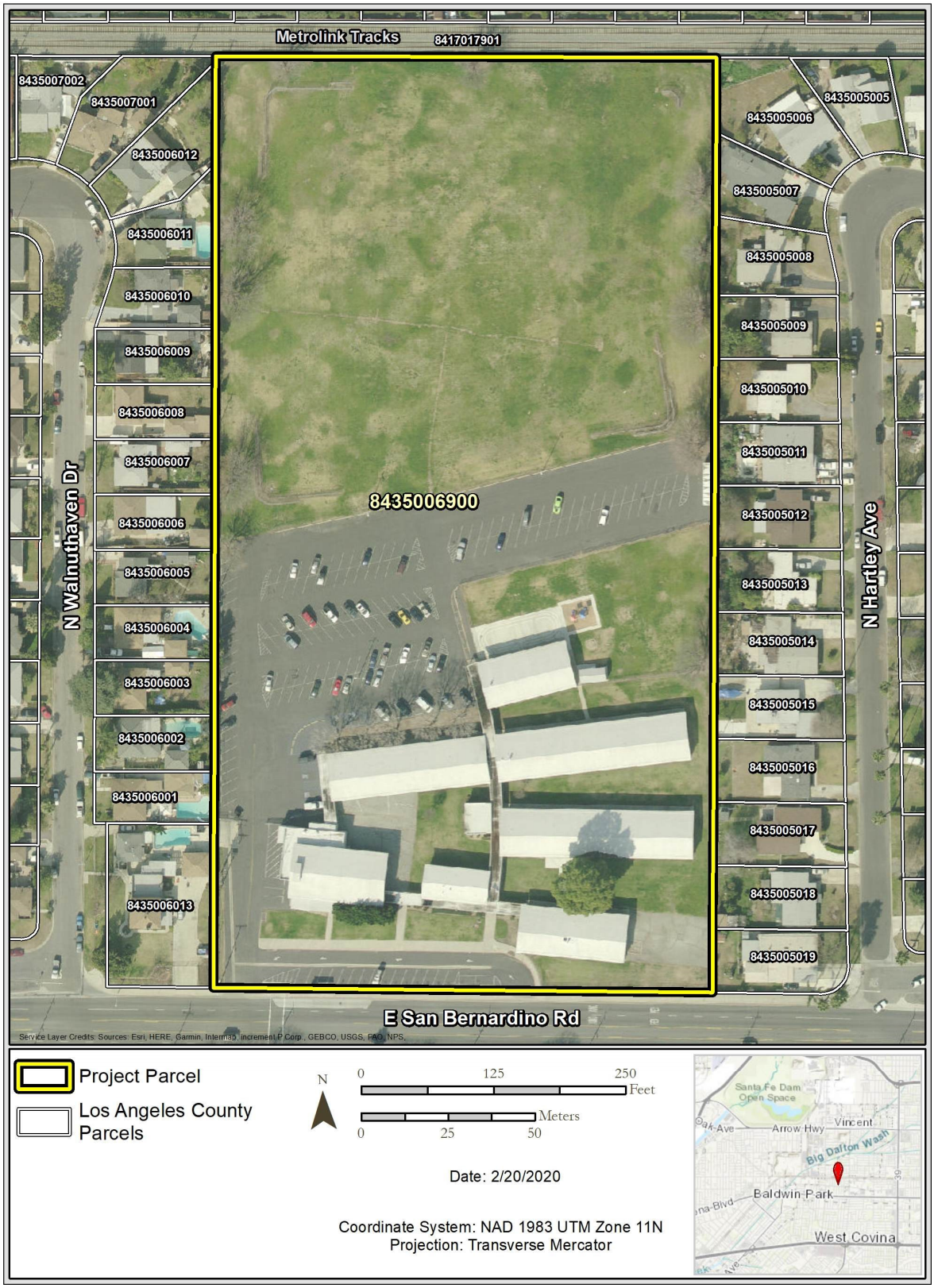
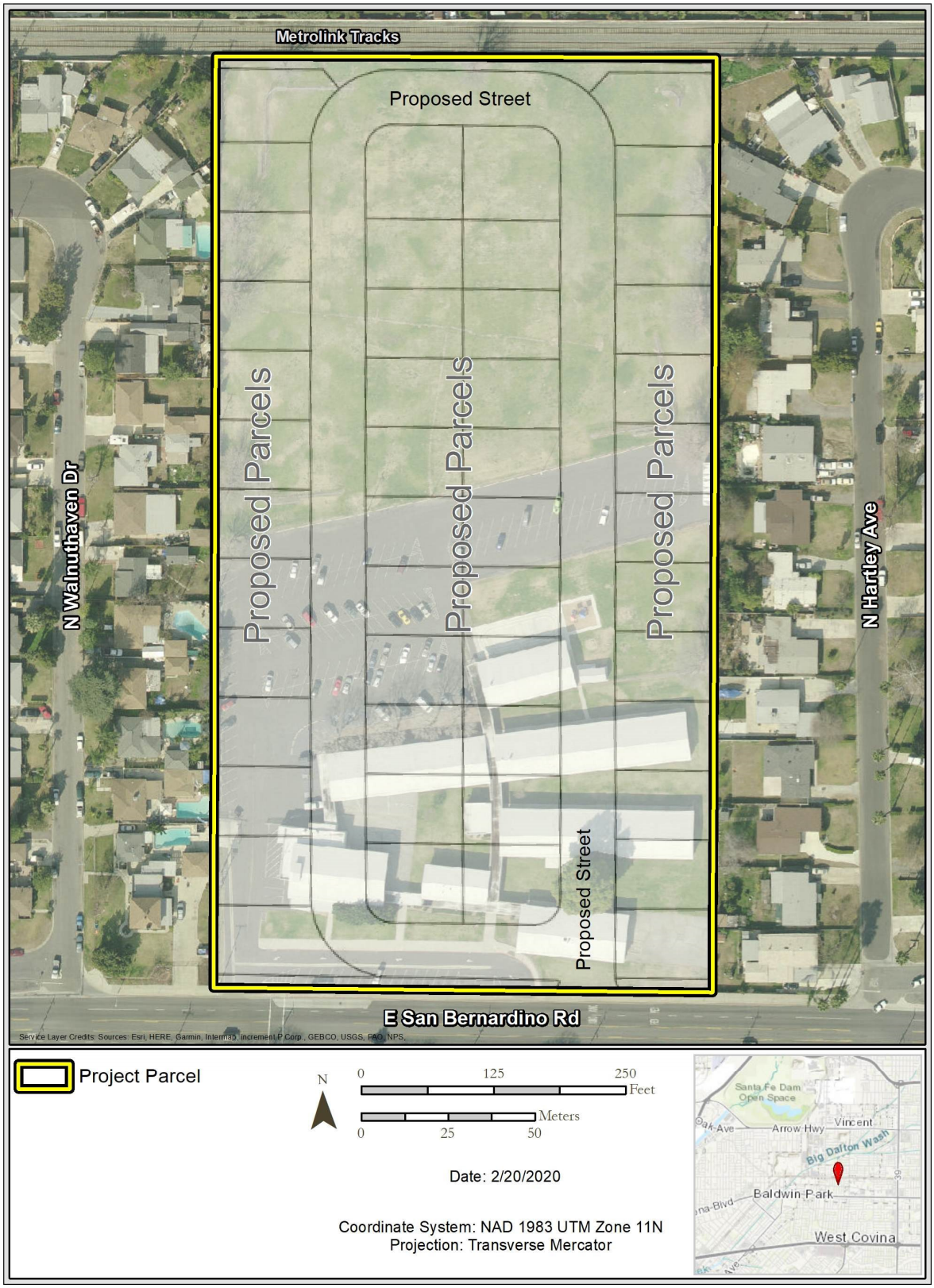


Figure 4. Proposed Development



2 Methodology

2.1 Literature Review

The site is in a highly developed and modified environment. Literature reviews were essential to determine the species that had been historically on the Project Site and had a potential to occur on or adjacent to the property. Species occurrences from the CDFW California Natural Diversity Database (CNDDB), RareFind 5 (CDFW 2020) and the California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants (CNPS 2020) were queried for records near the project. US Geological Survey (USGS) 7.5-minute quadrangles (quads) containing the project also served as the center of a nine-quad query within both the CNDDB and CNPS databases to determine which special-status plant and wildlife species required analysis within the survey area (Figure 4). Upon query completion, the biologist consulted the Consortium of California Herbaria (2020) and various technical reports to determine further expand on the limited information available for the site from other sources.

Information regarding the biological resources in the vicinity of the proposed Project Site was obtained by reviewing available data from a number of resources. The data review included a search of existing databases, inventories, lists, and collections that contain information regarding the occurrence of special-status species. Resources used in this review included the following:

- California Natural Diversity Database (CNDDB) Rarefind 5 (CDFW 2020) data within the USGS *Devore, California* and surrounding 7.5-minute topographic quadrangles;
- California Native Plant Society (CNPS) Electronic Inventory (CNPSEI) of Rare and Endangered Plants containing species-specific habitat requirements for plant species (CNPS 2020);
- A review of collection records from participating herbaria in California available through the Consortium of California Herbaria, 2020;
- A review of documented occurrences of common and rare plants for California in Calflora, 2020;
- Species descriptions from the Jepson Online Interchange (Jepson 2020);
- Soils data from the Natural Resources Conservation Service (NRCS) and available from the Web Soil Survey, 2020;
- Aerial photographs (including historical aerials) from Google Earth, Esri, Digital Globe, GeoEye, United States Department of Agriculture, USGS, i-cubed, Aerogrid, and Getmapping.
- United States Fish and Wildlife Service (USFWS) database of designated Critical Habitat;
- The Jepson Manual, 2nd Edition (Baldwin et al., 2012); and,
- A Manual of California Vegetation (Sawyer et al., 2009).

Occurrences and site conditions were uploaded to a GIS built in ArcGIS 8.0. This facilitated detection of overlapping aquatic features subject to state and federal jurisdiction. Species sightings from various sources were also mapped over soils, land use, and other features to address their potential occurrence on the Project Site.

2.2 Field Survey

Senior Biologist, Ricardo Montijo, conducted a field survey of the Project Site and, where possible, a 200-foot buffer area beyond to determine the potential presence for nesting raptors and other sensitive species found during the desktop review. The survey was conducted on February 20, 2020. Conditions during the survey consisted of clear skies with a high of 78°F (degrees Fahrenheit). There was no precipitation recorded during and after the survey.

The survey was conducted by walking a series parallel paths (transects) that followed the shape of the property. The entire site was afforded 100 percent coverage, except for inaccessible buildings. All species were recorded in the field. Scientific nomenclature and common names of plants in this report follow Baldwin et al. (2012). Natural vegetation community descriptions would have followed Sawyer et al. (2009), but there were no native vegetation types.

3 Results

3.1 Existing Environment

Google Earth's aerial image archive shows that the Project Site was used as a school or adult center as recently as 2016. The site is flat (and level) and its grounds are 100% disturbed or developed. Landscape areas include non-native annual herbs and forbs, ornamental trees and shrubs, and common native and non-native wildlife (see Appendix A, Photograph 1). Asphalt, concrete and school buildings comprise the southern half of the Project Site (see Appendix A, Photographs 2, 3, and 4). Past mowing is evident in fields on the northern portion of the property (see Appendix A, Photograph 5). Adjacent areas to the east and west are residential. Metrolink's San Bernardino rail line runs along Project Site's northern boundary.

3.2 Soils

Soils are often indicators of vegetation types and rare plants. The single soil type mapped on the project site is Urban land-Palmview-Tujunga complex, 0 to 5 percent slopes (Figure 5). The Tujunga series consists of very deep, somewhat excessively drained soils that formed in alluvium from granitic sources. Tujunga soils are on alluvial fans and floodplains, including urban areas. Slopes range from 0 to 12 percent. All soils on-site have been mechanically disturbed and heavily compacted from historic land uses (i.e., agricultural activities, grading activities, and surrounding development).

3.3 Vegetation

There is no native vegetation on the Project Site. Landscaping consists of non-native Jacaranda (*Jacaranda mimosifolia*), crape myrtle (*Laegerstroemia* sp.), and Mexican fan palm (*Washingtonia robusta*) occur near and around existing buildings. Turf, now unmaintained for several years, is subject to invasive species including non-native dead nettle (*Lamium amplexicaule*), Bermuda buttercup (*Oxalis pes-caprae*), and shepherd's purse (*Capsella bursa-pastorius*). Turfs in former playing fields support some of low-growing grasses and forbs such as slender wild oats (*Avena barbata*), wild oats (*Avena fatua*), ripgut brome (*Bromus diandrus*), soft chess (*Bromus hordeaceus*) and foxtail barley (*Hordeum murinum*). Other species include Bermuda grass (*Cynodon dactylon*), black medick (*Medicago lupulina*), common groundsel (*Senecio vulgaris*), several amaranth species (*Amaranthus* sp.), and big stork's bill (*Erodium botrys*) (Appendix A: Photograph 6).

3.4 Wildlife

The vegetation community and land cover types discussed above provide habitat for a limited number of wildlife species. Wildlife observed during the field survey consisted primarily of avian species typical of wildlife found in urban areas of Los Angeles County. Common birds observed on the site included native American crow (*Corvus brachyrhynchos*), lark sparrow (*Chondestes grammacus*), white crowned sparrow (*Zonotrichia leucophrys*), mourning dove (*Zenaida maroura*), northern mockingbird (*Mimus polyglottos*), Anna's hummingbird (*Calypte anna*), and house finch (*Haemorhous mexicanus*). European starling (*Sturnus vulgaris*), Eurasian collared dove (*Streptopelia decaocto*), and house sparrow (*Passer domesticus*) are non-native species that frequent the Project Site.

Botta's pocket gopher (*Thomomys bottae*) and California ground squirrel (*Otospermophilus beecheyi*) sign was found in the eastern and southern portions of the survey area. Side-blotched lizard (*Uta stansburiana*) and western fence lizard (*Sceloporus occidentalis*) were the only other native wildlife observed.

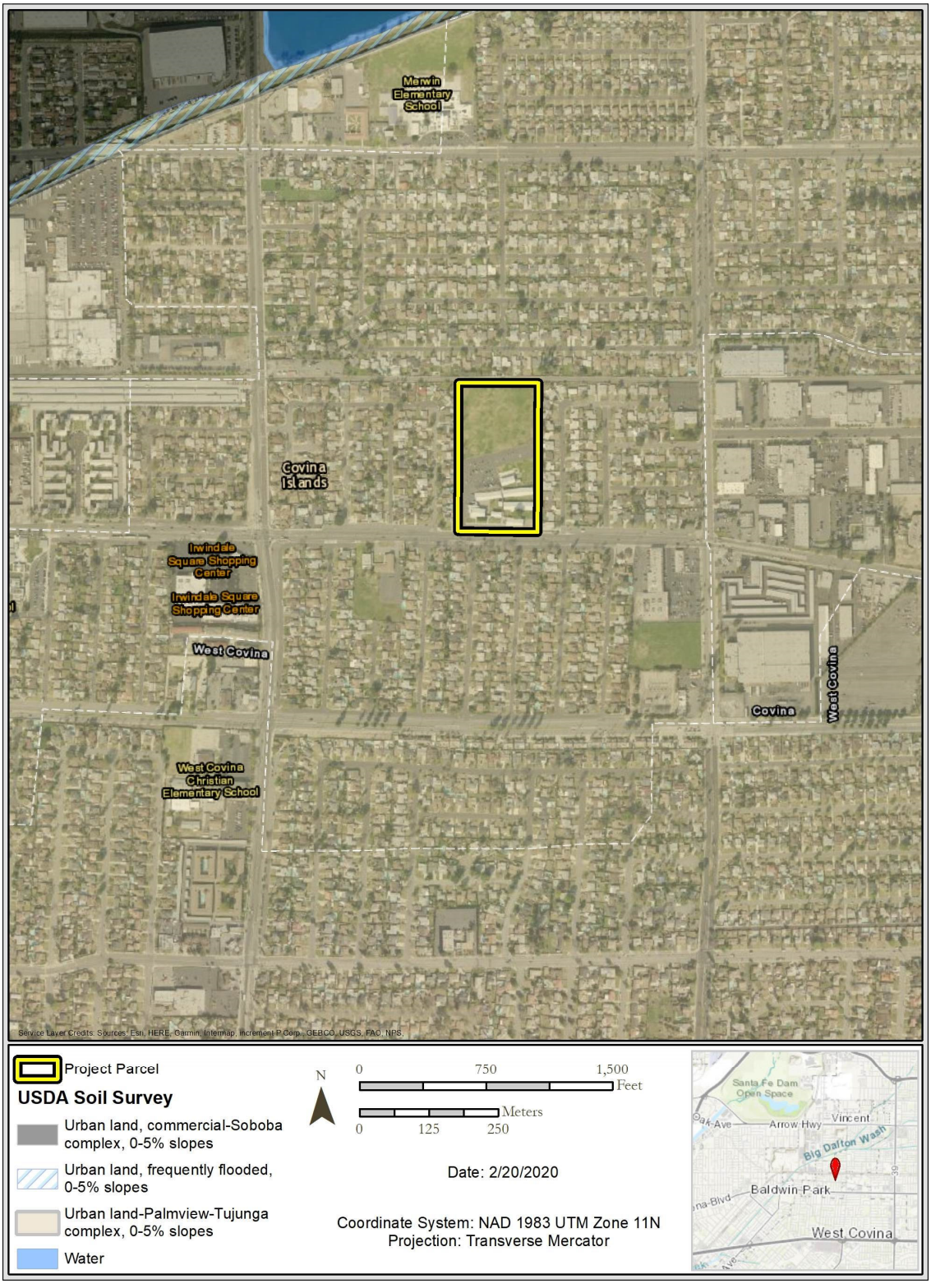
Although it is unlikely due to the built-up environment and limited supply of nearby open water, the abandoned buildings and trees could potentially support bat species. This includes common and less common species like western pipistrelle or canyon bat (*Parastrellus hesperus*), California myotis (*Myotis californicus*), and Mexican free-tail bat (*Tadarida brasiliensis*); however, no sign of any of these species was observed during surveys.

Appendix B includes a complete list of plant and wildlife observed during the survey.

3.5 Jurisdictional Waters and Wetlands

There are no streams or other bodies of water on or adjacent to the Project Site.

Figure 5. Soils from the NRCS



4 Sensitive Biological Resources

The following section discusses the existing site conditions and potential for special-status biological resources to occur within the project site.

4.1 Special Status Plants

Given that the Project Site is 100% developed, there are no suitable conditions for rare plants. Table 1 summarizes the plants evaluated, their typical growing conditions, and their occurrence potential on or adjacent to the site.

4.2 Special Status Wildlife

Given that the Project Site is 100% developed, there are few opportunities for special status wildlife. Table 2 summarizes wildlife evaluated, their preferred habitat, and their occurrence potential on or adjacent to the site.

4.3 Threatened or Endangered Species

There are some historic occurrences of threatened or endangered species within 5 miles of the project site (Table 1 and Figure 5).

4.4 Nesting Birds

The open field, abandoned buildings, and landscaping found in the project area provide marginal nesting habitat for common ground-, tree-, and cavity-nesting birds protected under the Migratory Bird Treaty Act (MBTA) and the California Fish and Game Code (California Fish and Game Code 3503).

Table 1. Special Status Flora and Fauna

Scientific Name Common Name	Status	Preferred Growing Conditions	Potential for Occurrence On-site
Plants			
Calochortus plummerae Plummer's mariposa-lily	Fed: — State: — CNPS: 4.1	Perennial from bulb that occurs in granitic, rocky substrate in chaparral, cismontane woodland, coastal scrub, lower montane coniferous forest, and valley and foothill grasslands. Occurs at elevations below 5,600 feet.	Absent; No Suitable Growing Conditions. Does Not Occur
Centromadia parryi ssp. *australis* southern tarplant	Fed: — State: —	Often in disturbed sites near the coast. Also found on alkaline soils at the edges of marshes and swamps.	Absent; No Suitable Growing Conditions. Does Not Occur

	CNPS: 1.B	Found in valley and foothill grasslands, and sometimes vernal pools margins. Southern California and Baja California.	
Chorizanthe parryi var. *parryi* Parry's spineflower	Fed: — State: — CNPS: 1B.1	Herb that blooms from April to June within sandy or rocky substrate in chaparral, cismontane woodland, coastal scrub, and valley and foothill grassland habitats. The elevation range is 1,600 to 2165 feet (500-660 meters) and this species' distribution is only within California (Baldwin et al. 2012, CNPS 2018).	Absent; No Suitable Growing Conditions. Does Not Occur
Dudleya densiflora San Gabriel Mountains dudleya	Fed: State: CNPS: 1B.1	This species flowers in June. It occurs on steep canyon walls at elevations 985 to 1,700 feet (300--520 m.) in Los Angeles County.	Absent; No Suitable Growing Conditions. Does Not Occur
Dudleya multicaulis many-stemmed dudleya	Fed: - State: - CNPS: 1B.2	This species has been collected in a wide variety of habitats but primarily in coastal scrub, and chaparral. Many collections in herbaria of this plant are from very near the project location, especially Azusa Canyon. This species normally occurs in steep granitic canyon walls, although they have also been found in other habitats including recently burned areas It occurs at elevations of 900 to 3,600 feet. It has not been detected on the project during botanical surveys,	Absent; No Suitable Growing Conditions. Does Not Occur

Table 1 (cont.): Sensitive Species in the Project Vicinity

Scientific Name **Common Name**	**Status**	**Preferred Growing Conditions**	**Potential for Occurrence On-site**
Horkelia cuneata var. *puberula* mesa horkelia	Fed: — State: — CNPS: 1B.1	Mesa horkelia is a perennial herb that blooms from February to July. It is found on sandy or gravelly substrate within chaparral (including maritime chaparral), cismontane woodland and coastal scrub habitats at elevations between 140 and 860 meters (CalFlora 2020).	Absent; No Suitable Growing Conditions. Does Not Occur

Lepidium virginicum var. *robinsonii* Robinson's peppergrass	Fed: — State: — CNPS: 1B.2	Robinson's peppergrass is an annual herb that blooms January to July and is associated with chaparral and coastal scrub habitats from 55 to 770 meters elevation (Baldwin et al. 2012, CNPS 2020).	Absent; No Suitable Growing Conditions. Does Not Occur
Phacelia stellaris Brand's star phacelia	Fed: FSC State: — CNPS: 1B.1	Brand's Phacelia occurs in coastal sage scrub and coastal dunes of Southern California and Baja California. It is found below 1,200 feet. A diminutive plant that rarely grows to eight inches, Brand's phacelia produces pale blue to lavender-colored flowers which it produces from March to May.	Absent; No Suitable Growing Conditions. Does Not Occur
Pseudognaphalium leucocephalum white rabbit-tobacco	Fed: — State: — CNPS: 2B.2	Generally, occurs in riparian woodland, cismontane woodland, coastal scrub, chaparral.	Absent; No Suitable Growing Conditions. Does Not Occur
Symphyotrichum defoliatum San Bernardino aster	Fed: — State: — CNPS: 1B.2	Annual that grows on interior sand dunes and sandy soils near Colton and within Riverside and San Bernardino counties at elevations from 1,000 to 1,400 feet.	Absent; Does Not Occur
Thelypteris puberula var. *sonorensis* Sonoran maiden fern	Fed: — State: — CNPS: 2B.2	This species grows in a variety of It grows in canyons, streambanks, and seeps in several of growing conditions. It is found at from 164 to 1640 feet (50–550 meters) in elevation.	Absent; Does Not Occur

Table 1 (cont.): Sensitive Species in the Project Vicinity

Scientific Name Common Name	Status	Preferred Growing Conditions	Potential for Occurrence On-site
Wildlife			
Accipiter cooperii Cooper's hawk	Fed: — State: SC	Cooper's hawk is frequently found in patchy woodlands, with dense stands of live oak, riparian deciduous or other forest habitats occurring near water. It is a breeding resident throughout most of the wooded portion of the state, with nesting occurring in dense stands containing moderate crown-depth. This common winter migrant and occasional summer resident in Southern California breeds in oak woodland habitats and southern cottonwood-willow riparian woodland	Of interest or concern when nesting, but it only a low nesting likelihood
Aimophila ruficeps canescens southern California rufous-crowned sparrow	Fed: — State: SC	Restricted to shrubby habitat in southern California and northwestern Baja California; habitat in southern California has been much reduced by ongoing development.	Absent; Does Not Occur due to Absence of Suitable Habitat
Antrozous pallidus pallid bat	Fed: — State: SC	Arid shrublands, grasslands, forests, and urban areas; locally common; resident. Marginally suitable roost sites may occur in hollow trees.	Unlikely to Occur
Aspidoscelis tigris stejnegeri coastal whiptail	Fed: — State: SC	Is associated with sparsely vegetated sage scrub, grasslands, and woodlands from sea level to 7,000 feet. It is often found in riparian corridors with sandy soils	Absent; Does Not Occur due to Absence of Suitable Habitat
Catostomus santaanae Santa Ana sucker	Fed: T State: SC	Santa Ana, Santa Clara, San Gabriel and Los Angeles rivers.	Absent; Does Not Occur due to Absence of Suitable Habitat
Coccyzus americanus occidentalis western yellow-billed cuckoo	Fed: T State: E	Riparian forest; dense riparian understory important for nest site selection; cottonwood trees important foraging habitat; nests in dense trees, shrubs, vines.	Absent; Does Not Occur due to Absence of Suitable Habitat
Eumops perotis californicus western mastiff bat	Fed: - State: SC	Historically from north-central California south to northern Baja California, eastward across the southwestern United States, and northwestern Mexico	Absent, Unlikely.

Table 1 (cont.): Sensitive Species in the Project Vicinity

Scientific Name Common Name	Status	Preferred Growing Conditions	Potential for Occurrence On-site
		to west Texas and Coahuila (Hall, 1981; Williams, 1986). In California, most records are from rocky areas at low elevations where roosting occurs primarily in crevices	
Gila orcuttii arroyo chub	Fed: — State: SC	Occur in the coastal streams of southern California. Inhabits sandy and muddy bottoms of flowing pools and runs of headwaters creeks and small to medium rivers. Often found in intermittent streams.	Absent; Does Not Occur due to Absence of Suitable Habitat
Icteria virens yellow-breasted chat	Fed: — State: SC	Riparian thickets of willow, brushy tangles near watercourses. Nests in riparian woodland throughout much of western North America. Winters in Central America.	Absent; Does Not Occur due to Absence of Suitable Habitat
Lasiurus xanthinus western yellow bat	Fed: — State: SC	Found in valley foothill riparian, desert riparian, desert palm oasis and desert wash. Roosts in trees, particularly palms. This species forages over water and among trees.	Absent, Does Not Occur
Lepus californicus bennettii San Diego black-tailed jackrabbit	Fed: — State: SC	Coastal scrub; open country with scattered thickets or patches of shrubs. Rests by day in shallow depression.	Absent; Does Not Occur due to Absence of Suitable Habitat
Nyctinomops macrotis big free-tailed bat	Fed: - State: SC	Found from northern South America and the Caribbean Islands northward to the western United States (Williams, 1986). In the southwestern U.S., populations appear to be scattered. Known breeding localities are in parts of Arizona, New Mexico, and Texas. Prefers rocky, rugged terrain. Roosts in crevices in high cliffs or rocky outcrops. Ranges up to 8000-foot elevation.	Absent, Does Not Occur
Phrynosoma blainvillii coast horned lizard	Fed: — State: SC	Wide variety of habitats including coastal sage scrub, grassland, riparian woodland; typically, on or near loose sandy soils; coastal and inland areas from Ventura Co. to Baja Calif.	Absent, Unlikely.

Table 1 (cont.): Sensitive Species in the Project Vicinity

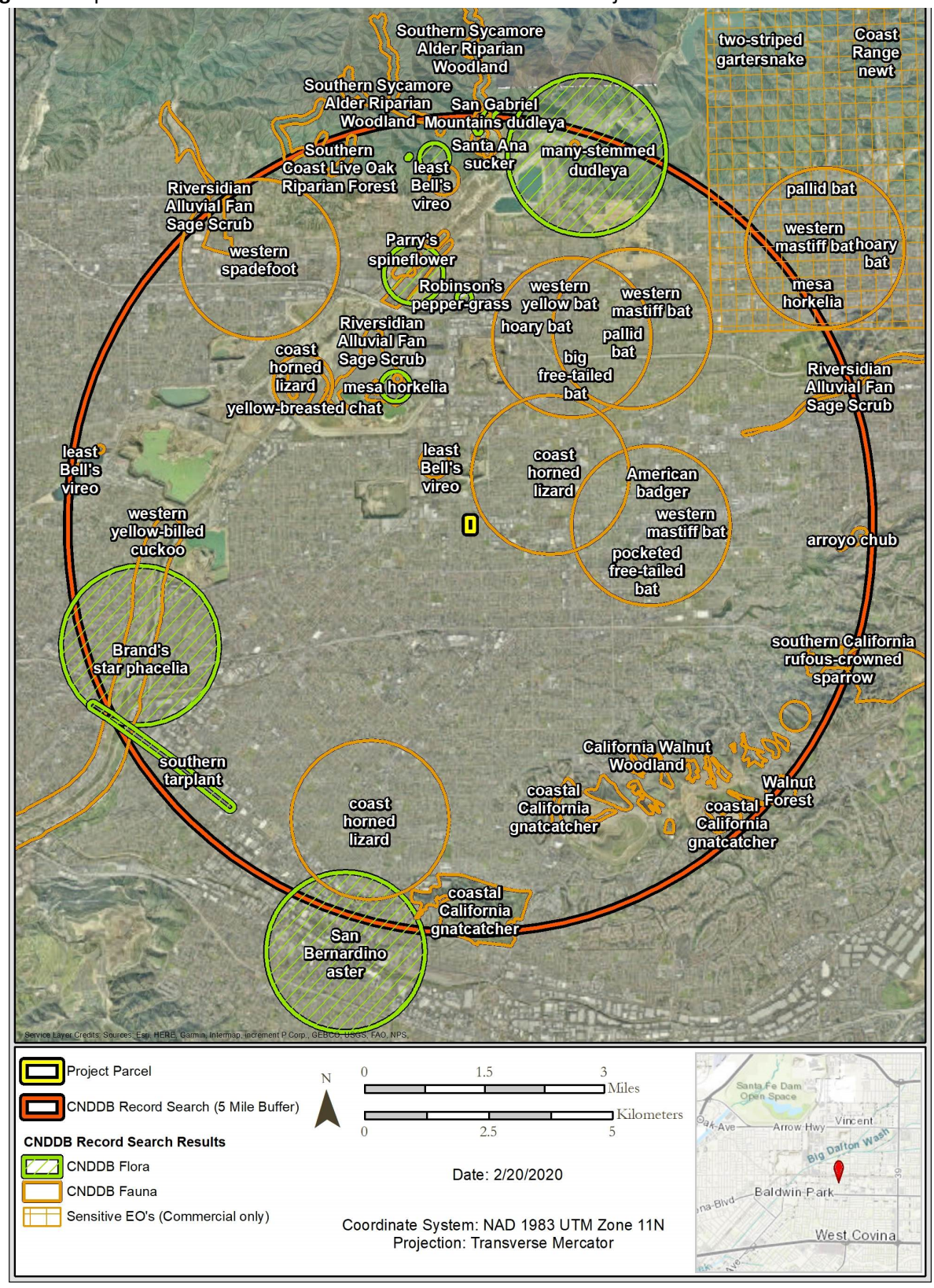
Scientific Name Common Name	Status	Preferred Growing Conditions	Potential for Occurrence On-site
Polioptila californica coastal California gnatcatcher	Fed: T State: —	Prefers coastal sage scrub but occasionally occurs and nests in other scrub habitats.	Absent; Does Not Occur due to Absence of Suitable Habitat
Rhinichthys osculus ssp. 3 Santa Ana speckled dace	Fed: — State: SC	Aquatic, south coast flowing waters; freshwater creeks, shallow gravel and cobble riffles.	Absent; Does Not Occur due to Absence of Suitable Habitat
Spea hammondii western spadefoot	Fed: — State: SC	Occurs primarily in grassland habitat but can be found in valley-foothill hardwood woodlands. Requires ephemeral ponds for egg laying.	Absent; Does Not Occur due to Absence of Suitable Habitat
Taricha torosa Coast Range newt	Fed: — State: SC	Valley-foothill hardwood, valley-foothill conifer, coastal scrub, mixed chaparral; breeding occurs in ponds, reservoirs, and streams; eggs are attached to sticks, stones, or vegetation in flowing or non-flowing water; fast-moving streams and rivers are used more often in southern California mountains than elsewhere in the range; benthic, burrowing in or using soil, fallen log/debris; creek, medium river, pool, riffle.	Absent; Does Not Occur due to Absence of Suitable Habitat
Taxidea taxus American badger	Fed: - State: SC	Occurs in open woodlands, desert scrub, grassland, open habitat generally. Undisturbed areas for denning, may use Ag fields if small mammal prey present.	Absent; Does Not Occur due to Absence of Suitable Habitat
Thamnophis hammondii two-striped gartersnake	Fed: — State: SC	Usually occurs in or near permanent fresh water, often along streams with rocky beds bordered by willows and other riparian vegetation, including mountain slopes and desert oases; requires dense riparian vegetation; burrowing in or using soil.	Absent; Does Not Occur due to Absence of Suitable Habitat
Vireo bellii pusillus least Bell's vireo	Fed: E State: E	Summer resident in riparian forest, riparian scrub, riparian woodland, scrub with thick understory, esp. with some standing water; normal occurrence in the area only during the breeding season or migration; may forage outside of riparian habitats; dense riparian	Absent; Does Not Occur due to Absence of Suitable Habitat

Table 1 (cont.): Sensitive Species in the Project Vicinity

Scientific Name Common Name	Status	Preferred Growing Conditions	Potential for Occurrence On-site
		understory shrubbery required for nesting; nests usually 3 ft above ground.	

Status Key	California Rare Plant Ranks
Fed: E = Federal Endangered Fed: T = Federal Threatened Fed: FRC Federal Species of Concern State: E = California Endangered SC = California Species of Special Concern	1A = Presumed extinct 1B = Rare, Threatened or Endangered in California and elsewhere 2B = Rare, Threatened or Endangered in California, but more common elsewhere .1 = seriously threatened in California .2 = fairly threatened in California .3 = not very threatened in California

Figure 6. Reported CNDDB Occurrences within Five Miles of the Project



potential to be minimal. Restrictions may include establishment of exclusion zones (no ingress of personnel or equipment at a minimum radius of 100 feet around an active raptor nest and a 50-foot radius around an active migratory bird nest) or alteration of the construction schedule.

- A qualified Biologist shall delineate the buffer using Environmentally Sensitive Area fencing, pin flags, and or yellow caution tape. The buffer zone shall be maintained around the active nest site(s) until the young have fledged and are foraging independently, or until the nest has failed.

4.5 Wildlife Movement

Based upon the results of the field survey, the Project Site is unlikely to serve as corridor between open lands due to expansive residential development, surrounding roads, and freeways.

4.6 Jurisdictional Waters and Wetlands

No streams, water bodies, creeks, etc. that could be construed as jurisdictional features exist on the Project Site; thus, permits for Clean Water Act Sections 401 and 404, Section 1600 of the California Fish and Game Code, will not be required for this project. More information on these regulations is provided in Appendix C of this report.

4.7 Protected Trees and Woodlands

There are no trees or woodlands subject to Covina Municipal Code (Chapter 17.83 Tree Preservation)[1] or Los Angeles County jurisdiction on Project Site.

[1] https://covinaca.gov/sites/default/files/fileattachments/planning_commission/page/7571/chapter_17.83_tree_preservation_2.pdf

5 Discussion-

The following discussion addresses potential impacts to special-status biological resources resulting from the proposed project in light of the State, Federal and local regulation (Appendix C) and recommends mitigation measures as part of the projects design where appropriate to minimize those impacts to a level of "less than significant" under CEQA.

5.1 Special-status Plant Species and Communities

Based on the literature search and field survey, the project site and survey area do not contain suitable habitat for special-status plants, or vegetation communities within the project site. Therefore, the presence of special-status plants and vegetation communities on-site is unlikely, and no further studies are necessary, and no mitigation measures are required.

5.2 Special-status Wildlife Species

Based on the literature search and field survey, the project site and survey area do not contain suitable habitat for special-status wildlife species. Therefore, the presence of special-status wildlife is not likely to occur on-site or within the survey area, and no further studies are necessary. No mitigation measures are required.

5.3 Nesting Birds

Potential impacts may occur to resident and migratory species during project construction that would render the project temporarily unsuitable for nesting birds because of the noise, vibrations, and increased activity levels associated with various construction activities. These activities could potentially subject birds to risk of death or injury, and they are likely to avoid using the area until such construction activities have dissipated or ceased.

Construction activities that occur during the nesting season (generally February 1 to August 31) could disturb nesting sites for birds protected by the MBTA and Fish and Game Code. No action is necessary if no active nests are found or if construction occurs during the non-breeding season (generally September 1 through February 1)[2].

Implementation of the following avoidance and minimization measures agreed to as part of implementation of the project would reduce impacts to nesting birds:

- If construction or other project activities are scheduled to occur during the bird breeding season (February through August for raptors and March through August for most migratory bird species), a pre-construction nesting bird survey shall be conducted by a qualified biologist to ensure that active bird nests, will not be disturbed or destroyed. The survey shall be completed no more than three days prior to initial ground disturbance. The nesting bird survey shall include the project area and adjacent areas where proposed project activities have the potential to affect active nests, either directly or indirectly due to construction activity or noise. If an active nest is identified, a qualified biologist shall establish an

[2] The California Department of Fish and Wildlife has recently begun to recommend surveys for nesting birds all year given that there are species and taxonomic groups that do not conform to the "typical" nesting season.

appropriate disturbance limit buffer around the nest using flagging or staking. Construction activities shall not occur within any disturbance limit buffer zones until the nest is deemed inactive by the qualified biologist.

5.4 Wildlife Movement Corridors

The project site contains open farmland, and is immediately surrounded by roads, interstates, and commercial buildings. The project site has a low potential to be utilized by regional wildlife as a movement corridor.

5.5 Trees

As noted above, no trees are found on the project site or survey area. Therefore, the proposed project would not conflict with any local ordinances or policies regarding tree removal.

5.6 Jurisdictional Waters and Wetlands

Because of the absence of jurisdictional features on the project site or survey area, Clean Water Act Sections 401 and 404 permit applications will not be required to be submitted to the RWQCB and USACE, respectively.

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Appendix A. Photographs

Photograph 1. The above photograph facing east shows the landscaped trees next to the school buildings on the southern half of the project site.

Photograph 2. This photograph taken from the northern edge of the school buildings shows one of the taller trees on the former campus.

Photograph 3. Much of the school grounds are covered in asphalt, concrete, or turf. This photograph faces southeast.

Photograph 4. Growing among the turf and landscaping are invasive plants like this henbit deadnettle (*Lamium amplexicaule*).

Photograph 5.Turf along the northern limits of the Project Site is overrun with the invasive cheeseweed (*Malva parviflora*). Beyond the block wall is the Metrolink San Bernardino Line. The photograph faces north west.

Photograph 6. A view of the Project Site facing south toward the former school buildings. The sports field is in the foreground.

Appendix B. Species List

Plants	
Dicotyledons	
Araliaceae	**Ivy Family**
Hedera helix	English Ivy *
Asteraceae	**Sunflower Family**
Erigeron canadensis	Horseweed
Heterotheca grandiflora	Telegraphweed
Lactuca serriola	Prickly lettuce *
Taraxacum officinale	Dandelion *
Brassicaceae	**Mustard Family**
Capsella bursa-pastorius	Shepherd's Purse *
Bignoniaceae	**Bignonia Family**
Jacaranda mimosifolia	Jacaranda tree *
Boraginaceae	**Borage Family**
Amsinckia menziesii	Fiddleneck
Fabaceae	**Pea Family**
Melilotus indicus	Yellow Medick *
Geraniaceae	**Geranium Family**
Erodium botrys	Long-beaked storksbill *
Lamiaceae	**Mint Family**
Lamium amplexicaule	Henbit dead nettle *
Lythraceae	**Loosestrife Family**
Lagerstroemia sp.	Crepe Myrtle *
Malvaceae	**Mallow Family**
Malva parviflora	Cheeseweed *
Nyctaginaceae	**Four O'Clock Family**
Bougainvillea glabra	Bougainvillea *
Simaroubaceae	**Quassia Family**
Ailanthus altissima	Tree of Heaven *
Monocotyledons	
Arecaceae	**Palm Family**
Washingtonia robusta	Mexican Fan Palm *
Poaceae	**Grass Family**
Bromus diandrus	Cheatgrass *
Cynodon dactylon	Bermudagrass *
Hordeum vulgare	Common Barley *

BIRDS

Hawks and Eagles	**Accipitridae**
Red-tailed Hawk	*Buteo jamaicensis*
Doves and Pigeons	**Columbidae**
Eurasian Collared-dove	*Streptopelia decaocto*
Mourning Dove	*Zenaida macroura*
Crows	**Corvidae**
American Crow	*Corvus brachyrhynchos*
Sparrows	**Emberizidae**
White-crowned Sparrow	*Zonotrichia leucophrys*
Lark Sparrow	*Chondestes grammacus*
Falcons	**Falconidae**
American Kestrel	*Falco sparverius*
Finches	**Fringillidae**
House Finch	*Haemorhous mexicanus*
Mimic Thrushes	**Mimidae**
Northern Mockingbird	*Mimus polyglottos*
New World Warblers	**Parulidae**
Yellow-rumped Warbler	*Setophaga coronata*
Old World Sparrows	**Passeridae**
House Sparrow	*Passer domesticus*
Starlings	**Sturnidae**
European Starling	*Sturnus vulgaris*
Hummingbirds	**Trochilidae**
Anna's Hummingbird	*Calypte anna*
Flycatchers	**Tyrannidae**
Black Phoebe	*Sayornis nigricans*

MAMMALS

Gophers	**Geomyidae**
Valley Pocket Gopher	*Thomymys bottae*
Squirrels	**Sciuridae**
California ground squirrel	*Otospermophilus beecheyi*

Appendix C. Applicable Regulations

1.1 Regulatory Setting

State and federal legislation intended to conserve and promote recovery protect a variety of natural resources. Generally, there are three categories of natural resource legislation:

- Laws intended to protect individual species and their habitat, such as state and federal endangered species acts.
- Laws and policies intended to protect taxa (species or groups of plants and animals), such as the federal Migratory Bird Treaty Act.
- Laws and policies that protect habitats or natural communities critical to the maintenance of other vital resources, such as portions of the federal Clean Water Act and California Fish and Game (CFG) Code that protect wetlands and streambeds, respectively.

The ensuing sections discuss state, federal and local laws and policies; plans driven by state and federal law; and other applicable regulations that apply to natural resources potentially affected by this project.

1.2 Endangered Species Acts

1.2.1 Federal Endangered Species Act

The United States Congress passed the Federal Endangered Species Act (FESA) in 1973 to protect endangered species and species threatened with extinction (federally listed species). FESA operates in conjunction with the National Environmental Policy Act (NEPA) to help protect the ecosystems upon which endangered and threatened species depend.

FESA prohibits the “take” of endangered or threatened wildlife species. The legal definition of "take" is to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct" (§ 1532 (19)). Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns (50 CFR §17.3). Harassment is defined as actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavior patterns (50 CFR §17.3). Actions that result in take can result in civil or criminal penalties.

FESA authorizes the United States Fish and Wildlife Service (USFWS) to issue permits under Sections 7 and 10 of that Act. Section 7 mandates that all federal agencies consult with the USFWS for terrestrial species and/or National Marine Fisheries Service (NMFS) for marine species to ensure that federal agency actions do not jeopardize the continued existence of a listed species or adversely modify critical habitat for listed species. Any anticipated adverse effects require preparation of a biological assessment (BA) to determine potential effects of the project on listed species and critical habitat. If the project adversely affects a listed species or its habitat, the USFWS or NMFS prepares a Biological Opinion (BO). The BO may recommend "reasonable and prudent alternatives" to the project to avoid jeopardizing or adversely modifying habitat including “take” limits.

The FESA defines critical habitat as habitat deemed essential to the survival of a federally species. The FESA requires the federal government to designate “critical habitat” for any species it lists under the

FESA. Under Section 7, all federal agencies must ensure that any actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species, or destroy or adversely modify its designated critical habitat. These complementary requirements apply only to federal agency actions, and the latter only to habitat that has been designated. A critical habitat designation does not set up a preserve or refuge, and applies only when federal funding, permits, or projects are involved. Critical habitat requirements do not apply to activities on private land that does not involve a federal agency.

Non-federal projects may still pursue Section 7 permitting when a federal nexus, such as federal funding or permitting (i.e. through the US Army Corps of Engineers under Section 404 of the Federal Clean Water Act), is available. When no nexus is available, Section 10(a)(1)(B) authorizes issuance of permits to allow "incidental take" of listed species. “Incidental take” is defined by the FESA as take that is incidental to, and not for the purpose of, carrying out an otherwise lawful activity. To obtain an incidental take permit, an applicant must submit a Habitat Conservation Plan (HCP) outlining steps to minimize and mitigate permitted take impacts on listed species.

1.2.2 California Endangered Species Act

The California Department of Fish and Game (CDFG) administers the California Endangered Species Act (CESA) (CFG Code Sections 2050 *et sequiter*). CESA requires the CDFG to maintain a list of threatened and endangered species. The CDFG also maintains a list of candidates for listing under CESA and of species of special concern (or watch list species). CESA prohibits the "taking" of listed species except as otherwise provided in State law. Section 86 of CFG Code defines "take" as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." Under certain circumstances, CESA applies these take prohibitions to species petitioned for listing (state candidates). Pursuant to the requirements of CESA, State lead agencies (as defined under the California Environmental Quality Act (CEQA) Public Resources Code Section 21067) are required to consult with CDFG to ensure that any action or project is not likely to jeopardize the continued existence of any endangered or threatened species or result in destruction or adverse modification of essential habitat. Additionally, the CDFG encourages informal consultation on any proposed project that may impact a candidate species.

1.3 Protected Wildlife

1.3.1 Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA), first enacted in 1916, prohibits any person, unless permitted by regulations, to:

> …pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, offer for sale, sell, offer to purchase, purchase, deliver for shipment, ship, cause to be shipped, deliver for transportation, transport, cause to be transported, carry, or cause to be carried by any means whatsoever, receive for shipment, transportation or carriage, or export, at any time, or in any manner, any migratory bird, included in the terms of this Convention … for the protection of migratory birds ... or any part, nest, or egg of any such bird. (16 U.S.C. 703)

The list of migratory birds includes nearly all bird species native to the United States. The statute was extended in 1974 to include parts of birds, as well as eggs and nests. Thus, it is illegal under MBTA to directly kill, or destroy a nest of, nearly any native bird species, not just endangered species. Activities that result in removal or destruction of an active nest (a nest with eggs or young being attended by one or more adults) would violate the MBTA. Removal of unoccupied nests, or bird mortality resulting indirectly from disturbance activities, is not considered a violation of the MBTA. The Migratory Bird Treaty Reform Act of 2004 further defined species protected under the act and excluded all non-native species.

1.3.2 Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c), enacted in 1940, and amended several times since then, prohibits anyone, without a permit issued by the Secretary of the Interior, from "taking" bald eagles (*Haliaeetus leucocephalus*) including their parts, nests, or eggs. In 1962, Congress amended the act to cover golden eagles (*Aquila chrysaetos*). The Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb."

For purposes of these guidelines, "disturb" means: “to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagle's return, such alterations agitate or bother an eagle to a degree that interferes with or interrupts normal breeding, feeding, or sheltering habits, and causes injury, death or nest abandonment.

1.3.3 California Fish and Game Code

Section 3503.5 of the California Fish and Game Code states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.” Disturbance activities that result in abandonment of an active bird-of-prey nest in areas adjacent to the disturbance may also be considered a violation of the Fish and Game Code.

1.3.4 California Environmental Quality Act Guidelines

CEQA Guidelines (Section 15380[b]) also afford species not listed under FESA or CESA special consideration if a species can be shown to meet certain specified criteria. Intended primarily to deal with situations in which, for example, an action affects a species not yet afforded protection under state or federal law, this section of the Guidelines affords species protection until legal designation of the species occurs.

1.4 Protected Plants

1.4.1 California Native Plant Society

The California Native Plant Society (CNPS) maintains the *Inventory of Rare and Endangered Plants* (CNPS 2020). This list includes species not protected under federal or state endangered species legislation. The major categories of plants under the CNPS scheme are:

List 1A - Plants presumed extinct.
List 1B - Plants rare, threatened, or endangered in California and elsewhere.
List 2 - Plants rare, threatened, or endangered in California, but more numerous elsewhere.
List 3 - A review list of plants for which the CNPS requires more information.
List 4 - A watch list of plants of limited distribution.

CNPS List 1 or 2 generally meet CEQA Section 15380 criteria.

1.4.2 Native Plant Protection Act

The Native Plant Protection Act (NPPA) of 1977 (Fish and Game Code Section 1900-1913) directed CDFG to carry out the Legislature's intent to "preserve, protect and enhance rare and endangered plants in this State." The NPPA gave the California Fish and Game Commission the power to designate native plants as "endangered" or "rare" and protected endangered and rare plants from take. The NPPA thus includes measures to preserve, protect, and enhance populations of rare and endangered native plants.

CESA has largely superseded NPPA for all plants designated as endangered by NPPA. The NPPA nevertheless provides limitations on take of rare and endangered species as follows: "...no person will import into this state, or take, possess, or sell within this State" any rare or endangered native plant, except in compliance with provisions of the CESA. Individual landowners are required to notify the CDFG at least 10 days in advance of changing land uses to allow the CDFG to salvage any rare or endangered native plant material. Utility projects are normally exempt from the provisions of the Act except for the 10-day notification requirement.

1.5 Protected Habitats

1.5.1 Federal Clean Water Act

The U.S. Army Corps of Engineers (USACE) and the Environmental Protection Agency (EPA) regulate discharge of dredged or fill material into navigable waters of the United States under Section 404 of the Clean Water Act (CWA). The general definition of navigable waters of the U.S. includes those waters of the U.S. that are subject to the ebb and flow of the tide shoreward to the mean high water mark, and/or are presently used or have been used in the past, or may be susceptible to use to transport interstate or foreign commerce. "Discharges of fill material" are defined as the addition of fill material into waters of the U.S., including, but not limited to the following: placement of fill that is necessary for the construction of any structure, or impoundment requiring rock, sand, dirt, or other material for its construction; site-development fills for recreational, industrial, commercial, residential, and other uses; causeways or road fills; fill for intake and outfall pipes and subaqueous utility lines [33 C.F.R. §328.2(f)]. Additionally, Section 401 of the CWA (33 U.S.C. 1341) requires any applicant for a federal license or

permit to conduct any activity that may result in a discharge of a pollutant into waters of the United States to obtain a certification that the discharge will comply with applicable effluent limitations and water quality standards.

Jurisdictional waters of the U.S. include jurisdictional wetlands as well as all other waters of the U.S. such as creeks, ponds, and intermittent drainages. Wetlands are defined as "those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions" [33 C.F.R. §328.3(b)]. Presently, to be a wetland, a site must exhibit three wetland criteria: hydrophytic vegetation, hydric soils, and wetland hydrology existing under the "normal circumstances" for the site.

The lateral extent of non-tidal waters is determined by delineating the ordinary high-water mark (OHWM) [33 C.F.R. §328.4(c)(1)]. The OHWM is defined by the Corps as "that line on shore established by the fluctuations of water and indicated by physical character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas" [33 C.F.R. §328.3(e)].

The Corps authorizes certain fill activities under the Section 404 Nationwide Permit Program (NWP). NWP 12 covers utility line construction activities that result in fill placement into Waters of the U.S. NWP 12 also states that overhead utility lines constructed over navigable Waters of the U.S. require a Rivers and Harbors Act Section 10 permit. Nationwide permits do not authorize activities that are likely to jeopardize the existence of a threatened or endangered species; coordination by the Corps with the USFWS pursuant the FESA is required. Similarly, nationwide permits do not authorize activities that may affect properties listed or eligible for listing in the National Register of Historic Places (56 Federal Register [FR] 59134, November 22, 1991); coordination by the Corps with the State Historic Preservation Office is required. In addition to conditions outlined under each NWP, project-specific conditions may be required by the USACE as part of the Section 404 permitting process.

Because of recent court decisions in *Rapanos v. United States* and *Carabell v. United States,* the USACE and the EPA issued joint guidance regarding the USACE's jurisdiction over Waters of the United States under the CWA. The guidance summarizes the Supreme Court's findings and provides how and when the USACE should apply the "significant nexus" test in its jurisdictional determinations. This test determines whether a waterway is substantially connected to a traditionally navigable water tributary and thus falls within the USACE's jurisdiction. The guidance provides the factors and summarizes the significant nexus test as an assessment of "the flow characteristics and functions of the tributary itself and the functions performed by all wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of downstream traditional navigable waters." Flow characteristics include the volume, duration, and frequency of the flow. Additionally, ecological factors should be included, such as the shared hydrological and biological characteristics between a tributary and an adjacent wetland.

Section 401 of the CWA requires the issuance of a water quality certification or waiver thereof for all Section 404 nationwide or individual permits issued by the USACE. The EPA has deferred water quality certification authority to the State Water Resources Control Board (SWRCB). Most projects are regulated by Regional Water Quality Control Boards (RWQCBs). The SWRCB directly regulates multi-regional projects and supports and coordinates the program statewide.

1.5.2 Porter-Cologne Water Quality Act

The Porter-Cologne Water Quality Control Act (as amended 2011) mandates that the State Water Resources Control Board and each regional board shall be the principal state agencies with primary responsibility for the coordination and control of the state's water quality. The state board and regional boards in exercising any power granted in this division conform to and implement the policies of the Act and coordinate their respective activities so as to achieve a unified and effective water quality control program in the state.

Pursuant to this Act, the regional boards engage in a number of water quality functions in their respective regions, such as preparing and periodically updating Basin Plans that establish beneficial uses, water quality standards, and actions necessary to maintain these standards in order to control non-point and point sources of pollution to the State's waters.

Regional Boards regulate all pollutant or nuisance discharges that may affect either surface water or groundwater. Under the auspices of the EPA, the State Board and regional boards also have the responsibility of granting Clean Water Act National Pollutant Discharge Elimination System permits, commonly known as NPDES permits, for certain point-source discharges.

1.6 California Fish and Game Code (Section 1600 *et seq*.)

CDFG is a trustee agency that has jurisdiction under Section 1600 *et sequiter* of the California Fish and Game Code. Under Section 1602, a private party must notify CDFG if a proposed project will "substantially divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake designated by the department, or use any material from the streambeds except when the department has been notified pursuant to Section 1601." If an existing fish or wildlife resource may be substantially adversely affected by the activity, CDFG may propose reasonable measures that will allow protection of those resources. If these measures are agreeable to the parties involved, they may enter into an agreement with CDFG identifying the approved activities and associated mitigation measures.